

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 25, 1999**

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EXECUTIVE SECRETARY

**IN RE:**

**PETITION FOR ARBITRATION BY  
ITC^DELTACOM COMMUNICATIONS,  
INC. WITH BELLSOUTH  
TELECOMMUNICATIONS, INC.,  
PURSUANT TO THE  
TELECOMMUNICATIONS ACT OF 1996**

**DOCKET NO. 99-00430**

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**REBUTTAL TESTIMONY OF CHRISTOPHER J. ROZYCKI  
ON BEHALF OF ITC^DELTACOM COMMUNICATIONS, INC.**

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**FILE**

1 Q: ARE YOU THE SAME CHRISTOPHER ROZYCKI THAT FILED DIRECT  
2 TESTIMONY IN THIS PROCEEDING?

3 A: Yes, I am.  
4

5 Q: WHAT IS YOUR PURPOSE IN TESTIFYING TODAY?

6 A: The purpose of my testimony is to respond to a number of arguments made by  
7 BellSouth's witnesses in response to ITC^DeltaCom's petition for arbitration and  
8 related direct testimony. I would also like to clarify ITC^DeltaCom's position and  
9 provide additional information on a number of issues raised by BellSouth's  
10 witnesses in their direct testimony.  
11

12 **Issue 1(a) – Should BellSouth be required to comply with the performance**  
13 **measures and guarantees for pre-ordering/ordering, resale and unbundled**  
14 **network elements (“UNEs”), provisioning, maintenance, interim number**  
15 **portability and local number portability, collocation, coordinated**  
16 **conversions and the bona fide request processes as set forth fully in**  
17 **Attachment 10 of Exhibit A to this Petition?**  
18

19 Q: ON PAGES 10-11, MR. VARNER DISCUSSES ITC^DELTACOM'S PROPOSED  
20 PERFORMANCE MEASURES. DO YOU AGREE THAT BELL SOUTH'S  
21 SERVICE QUALITY MEASURES ARE ADEQUATE?

22 A: No. While these measures are a start, they are not representative of what  
23 ITC^DeltaCom or the industry needs to assure high-quality, non-discriminatory  
24 performance. ITC^DeltaCom's Performance Measures and Performance  
25 Guarantees were developed by adapting many months of industry negotiations

1 in Texas. We believe our proposed Performance Measures and Guarantees  
2 more closely approximate industry consensus than those proposed by BellSouth.  
3 It is critical that performance measures and guarantees be implemented TODAY.  
4 Therefore, ITC^DeltaCom proposes that the Authority incorporate  
5 ITC^DeltaCom's proposed performance measures and guarantees into this  
6 interconnection agreement.

7  
8 Q: MR. VARNER GOES ON TO ARGUE THAT "ITC^DELTACOM APPARENTLY  
9 BELIEVES THAT PERFORMANCE MEASUREMENTS CAN ONLY BE  
10 ENFORCED THROUGH PENALTIES." IS HIS CHARACTERIZATION  
11 CORRECT?

12 A: No, it is not. In a regulated monopoly environment, it is possible that  
13 performance measurements can be enforced without penalties. However, in an  
14 industry transitioning to competition, such as local telecommunications, self-  
15 executing performance guarantees are the only effective and responsive means  
16 to achieving and maintaining levels of service quality, rather than the protracted  
17 litigation envisioned by Mr. Varner and BellSouth. Mr. Varner argues that "State  
18 law and State and Federal commission procedures" are adequate "to address  
19 any breach of contract situation" that may arise. While the Tennessee  
20 Regulatory Authority ("Authority" or "TRA") certainly can address a breach of  
21 contract situation, this often takes many months and in some cases years and  
22 immense Authority and industry resources. ITC^DeltaCom could be forced to

1 spend millions of dollars pursuing these complaints to compel adequate  
2 performance from BellSouth. Moreover, Authority complaints and litigation  
3 reward BellSouth and work a particular hardship on smaller companies, such as  
4 ITC^DeltaCom. If this is the only alternative, then ITC^DeltaCom may have to file  
5 as many as fifty or more individual complaints in a two-month interval.<sup>1</sup>

6 BellSouth's invitation to seek enforcement of the interconnection  
7 agreement at the Authority rather than agreeing to adequate performance  
8 measures and guarantees is inapposite to its unwillingness to agree to a "loser  
9 pays" clause in the interconnection agreement. Additionally, BellSouth would  
10 likely take the position that the Authority is without jurisdiction to award  
11 damages. Finally, I believe that it is bad public policy for the Authority to accept  
12 BellSouth's suggestion that all cases of inadequate performance be resolved at  
13 the Authority in separate lawsuits. Such a position wastes the Authority's limited  
14 resources.

15  
16 Q: HOW DO TENNESSEE CONSUMERS BENEFIT FROM BELL SOUTH'S  
17 POSITION THAT POOR PERFORMANCE MUST BE ADDRESSED ON A CASE  
18 BY CASE BASIS BY THE AUTHORITY?

19 A: They don't. Our complaints would do little to satisfy our customers who want  
20 results, competitive pricing and quality service now. Thus, the situation persists

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<sup>1</sup> ITC^DeltaCom has experienced numerous failed cutovers, and service quality problems attributable to BellSouth.

1 and customers are denied the ability to choose competitive alternatives for their  
2 telecommunications needs without being "penalized" by the roadblocks imposed  
3 by BellSouth. The Authority and the courts are simply not well-equipped to  
4 address the volume or respond quickly enough to resolve the complaints of  
5 CLECs and their end users. Likewise, CLECs are simply not able to expend the  
6 resources it would take to fight each and every performance failure or breach by  
7 BellSouth. For instance, BellSouth frequently fails to perform cutovers at the  
8 scheduled cutover time, and, in some cases, BellSouth fails to show up for the  
9 cutover at all. Further, ITC^DeltaCom's customers have, on numerous  
10 occasions, been taken out of service without notice or explanation. Such  
11 reckless acts by BellSouth frustrate customers and often cause them economic  
12 harm, and damage ITC^DeltaCom's reputation. For specific details of these  
13 instances, this Authority need only review the exhibits to Mr. Hyde's testimony.

14  
15 Q: PLEASE CLARIFY YOUR RECOMMENDATION.

16 A: We believe the real answer to performance quality is to give BellSouth a clear  
17 performance objective and strong incentives to achieve that level of  
18 performance. The three tiers of self-executing performance guarantees set forth  
19 in Attachment 10 to our proposed agreement provide such incentives. We are  
20 not alone in this belief. The Texas Public Service Commission staff has  
21 conducted an investigation of performance measures in the context of its

1 ongoing Section 271 docket and has recommended tiered self-executing  
2 remedies.<sup>2</sup>

3  
4 Q: DO YOU BELIEVE THAT MR. VARNER IS CORRECT IN HIS ASSUMPTION  
5 THAT THIS AUTHORITY LACKS AUTHORITY TO ASSESS PENALTIES OR  
6 AWARD DAMAGES?

7 A: No. The TRA certainly has authority to issue penalties and award damages as  
8 part of its authority to regulate utility service in the State of Tennessee.

9 Moreover, the TRA has approved BellSouth tariffs that contain late payment  
10 penalties and interest. In addition, the TRA has the authority under the  
11 Telecommunications Act of 1996 (the "Act") to arbitrate the terms of this  
12 agreement. Indeed, the Act creates a duty for the Authority to arbitrate and  
13 decide the unresolved issues between the parties. Thus, the TRA has all the  
14 necessary authority to determine what should and should not be included in this  
15 agreement. The Authority can require specific contract language imposing State  
16 penalties or fines, or even award damages if BellSouth violates the terms of the  
17 Act or the Authority's regulations by providing discriminatory service to  
18 ITC^DeltaCom.

19 Although the TRA has the authority to award damages to ITC^DeltaCom if  
20 BellSouth provides discriminatory service, as set forth in Attachment 10 to

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<sup>1</sup> <sup>2</sup> In addition to Texas and California, Pennsylvania, Michigan, New York, New Jersey, Vermont and  
<sup>2</sup> Louisiana are investigating or have adopted some form of ILEC performance measures and remedies.

1 Exhibit A of the Petition, alternatively, the Authority could order that tiers two and  
2 three should be paid to the State, rather than to ITC^DeltaCom. In other  
3 jurisdictions, ITC^DeltaCom suggested such an alternative. ITC^DeltaCom  
4 desires high-quality performance not revenue generated from performance  
5 guarantees. In the long run, the only way for ITC^DeltaCom to offer competitive  
6 services is for ITC^DeltaCom to receive a level of performance commitment from  
7 BellSouth that is backed by a guarantee of service.

8 I would also note that Mr. Varner does not provide any specific authority  
9 for his contention that the TRA does not have authority to issue penalties or to  
10 include language that would require damages in the event of specific or  
11 continued nonperformance.

12  
13 Q: ARE PERFORMANCE GUARANTEES A NEW CONCEPT?

14 A: No. Mr. Varner states that a guarantee is completely unnecessary and state law  
15 and Authority procedures are available. What Mr. Varner fails to mention is that  
16 BellSouth already offers "Unconditional Satisfaction Guarantees," "Performance  
17 guarantees," and "Service Installation Guarantees" to both its access and retail  
18 customers. Today, ITC^DeltaCom, a customer and competitor of BellSouth, is  
19 not offered similar performance guarantees through its interconnection  
20 agreement. Clearly, BellSouth considers performance guarantees and penalties  
21 appropriate in certain circumstances, but not for its competing customer,

1 ITC^DeltaCom. Attached to my rebuttal testimony as Rebuttal Exhibit CJR-1 are  
2 tariff pages where BellSouth currently provides customer guarantees.

3  
4 Q: ARE PERFORMANCE MEASURES AND ENFORCEMENT MECHANISMS  
5  
6 PARTICULARLY IMPORTANT AND NECESSARY FOR ITC^DELTACOM?  
7

8 A. Yes. A facilities-based carrier such as ITC^DeltaCom is dependent upon  
9 BellSouth for essential network elements. Preordering, ordering, provisioning,  
10 billing, repair and maintenance of these leased facilities is provided by  
11 BellSouth. ITC^DeltaCom is similarly dependent upon BellSouth with respect to  
12 resold services. If BellSouth's performance on any of these functions falls short,  
13 ITC^DeltaCom's customer holds ITC^DeltaCom responsible. Thus, it is easy to  
14 understand why BellSouth would prefer their proposed Service Quality  
15 Measurements (without any guarantees) or no measures at all, to our proposed  
16 performance guarantees. Under BellSouth's Service Quality Measures, if  
17 BellSouth fails to perform there are no specified or predetermined  
18 consequences. There really is very little risk to BellSouth if they fail to perform,  
19 but there is a significant risk and cost to the CLEC to file and litigate a complaint  
20 before the Authority. Most importantly, however, the consumers of Tennessee  
21 will be protected and better served if solid performance measures and  
22 guarantees are put in place.



1 Q: DO THE FCC'S RULES SPEAK TO PERFORMANCE STANDARDS AND  
2 ENFORCEMENT MECHANISMS?

3 A. Yes. The Telecommunications Act of 1996 (the "Act") and FCC rules require that  
4 incumbent local exchange companies provide interconnection, access to  
5 unbundled network elements and resale at parity to that which it provides to  
6 itself. See 47 U.S.C. § 251(c)(2)(C); 47 C.F.R. § 51-503(a)(3). Access to  
7 network elements must be provided on a nondiscriminatory basis, and the level  
8 of access must be equal in terms of "quality, accuracy, and timeliness."

9 *Application of Ameritech Michigan Pursuant to § 271 of the Communications Act*  
10 *of 1934, as Amended, to Provide In-Region, InterLATA Services in Michigan*, CC  
11 Docket 96-98, ¶ 139. The TRA has authority to adopt rules regarding  
12 interconnection and unbundled access to network elements. Also, in its decision  
13 rejecting BellSouth's second Louisiana Section 271 application, the FCC cited  
14 the Louisiana Commission's requirement that BellSouth develop performance  
15 standards and, indeed, applauded the Louisiana Commission for taking these  
16 steps. *In the Matter of Application of BellSouth Corporation, BellSouth*  
17 *Telecommunications, Inc., and BellSouth Long Distance, for Provisions of In-*  
18 *Region, InterLATA Services in Louisiana*, CC Docket 98-121, ¶ 93. In addition,  
19 the TRA also has general supervisory authority over telephone companies.  
20

21 Q: MR. VARNER STATES THAT BELL SOUTH IS "WORKING WITH THE FCC TO  
22 FINALIZE A BELL SOUTH PROPOSAL FOR SELF-EFFECTUATING

1 ENFORCEMENT MEASURES.” DO YOU THINK THE AUTHORITY SHOULD  
2 WAIT FOR THESE “MEASURES?”

3 A: No. ITC^DeltaCom is not a party to these discussions, so we have no idea what  
4 the outcome might be. We believe that our approach, or some variation of the  
5 performance guarantees proposed by ITC^DeltaCom will prove to be far more  
6 effective than the BellSouth proposed self-effectuating enforcement measures.  
7 In addition, as Mr. Varner points out, BellSouth’s self-effectuating enforcement  
8 measures would not be effective until BellSouth is granted interLATA authority  
9 by the FCC. Based on the performance ITC^DeltaCom, and other CLECs,  
10 receive from BellSouth today, the term of this agreement may have expired  
11 before BellSouth’s FCC proposed enforcement measures go into effect.  
12 ITC^DeltaCom and its customers must have relief today, through specified  
13 performance measures and guarantees in the parties’ interconnection  
14 agreement. Our approach will spur competition in Tennessee.

15  
16 Q: HAS BELLSOUTH EVER OFFERED ITC^DELTACOM ANY FORM OF  
17 PERFORMANCE GUARANTEES?

18 A: No. It is our intent for performance guarantees to prompt performance, not to  
19 generate a revenue stream. Throughout these negotiations, ITC^DeltaCom has  
20 been ready to search for a reasonable middle ground. We asked BellSouth if it  
21 would attach the self-effectuating enforcement measures that it has presented to

1 the FCC and BellSouth refused. We continue to be available to discuss this  
2 issue.

3  
4 Q: MR. COON, ON PAGE 3 OF HIS DIRECT TESTIMONY, ARGUES THAT  
5 BELLSOUTH'S SERVICE QUALITY MEASUREMENTS (SQMS) ARE  
6 SUFFICIENT TO DETERMINE WHETHER BELLSOUTH IS PROVIDING  
7 NONDISCRIMINATORY ACCESS AND SHOULD BE ADOPTED. DO YOU  
8 AGREE?

9 A: No. The BellSouth SQMs are incomplete in several ways, and are not supported  
10 by the entire CLEC industry in Tennessee. Until there is broad-based support  
11 for a particular set of performance measures, then the Authority should decide  
12 this issue in each arbitration.

13  
14 Q: YOU MENTION THAT THE BELLSOUTH SQMS ARE INCOMPLETE IN  
15 SEVERAL WAYS. PLEASE EXPLAIN.

16 A. The BellSouth SQMs do not even address several critical areas that are  
17 extremely important to ITC^DeltaCom. These areas include: bona fide requests  
18 and coordinated conversions. Additionally, substantial portions of the BellSouth  
19 SQMs are still under development.  
20 BellSouth is representing their incomplete SQMs as more appropriate for use in  
21 Tennessee than the complete performance measures filed by ITC^DeltaCom.

1 Under the circumstances, the Authority should require the inclusion of the  
2 ITC^DeltaCom Performance Measures in this interconnection agreement.

3  
4 Q. IS MR. COON CORRECT IN HIS BELIEF THAT THE AUTHORITY SHOULD  
5 NOT ADOPT INDIVIDUAL PERFORMANCE MEASURES FOR EVERY CLEC?

6 A. Mr. Coon's argument is not without merit, but his conclusion is flawed. His  
7 argument assumes that all CLECs would prefer the entire set of SQMs  
8 presented by BellSouth rather than those proposed by ITC^DeltaCom.  
9 ITC^DeltaCom believes that our proposed performance measures and  
10 guarantees will be preferred by the vast majority of CLECs in Tennessee. The  
11 Authority can confirm this "theory" by approving the Performance Measures and  
12 Guarantees proposed by ITC^DeltaCom and simply observing the number of  
13 CLECs that opt into the ITC^DeltaCom interconnection agreement.  
14 The Authority could also blend the two sets of measures. First, the Authority  
15 could add the new measures proposed by ITC^DeltaCom to those of BellSouth,  
16 assuring that BellSouth's measures and benchmarks were properly developed.  
17 Second, the Authority could incorporate the guarantees of ITC^DeltaCom. This  
18 second step would likely gain broad industry approval, although it will probably  
19 be maligned by BellSouth.

20  
21 Q. CAN YOU DESCRIBE THE PRINCIPAL PROBLEM OR DEFICIENCY WITH  
22 THE BELL SOUTH SQMS?

1 A. Yes. The BellSouth SQMs lack remedies or consequences. They are like a  
2 guard dog with no teeth. By incorporating self effectuating remedies, then the  
3 Authority can make a significant public policy contribution that will speed the  
4 development of competition in Tennessee.

5  
6 **Issue 1(b): Should BellSouth be required to waive any nonrecurring charges**  
7 **when it misses a due date? If so, under what circumstances and for which**  
8 **UNEs?**  
9

10 Q: BELLSOUTH WITNESS VARNER INDICATES THAT A WAIVER OF NON-  
11 RECURRING CHARGES FOR A MISSED DUE DATE IS A "PENALTY OR  
12 LIQUIDATED DAMAGES PROVISION." [P. 12] WHAT IS YOUR RESPONSE?

13 A: I disagree. It is a performance guarantee similar to that which BellSouth offers to  
14 its customers today in its Tennessee and FCC tariffs. Each time BellSouth  
15 schedules a due date with ITC^DeltaCom and the customer, it is critical that the  
16 due date be met. ITC^DeltaCom incurs cost for each scheduled event. If  
17 BellSouth fails to show up, which happens frequently, we incur the cost of our  
18 technician's time. The waiver of non-recurring charges is a way for  
19 ITC^DeltaCom to avoid penalties resulting from BellSouth's inaction and non-  
20 performance. The customer may also have scheduled a technician or vendor to  
21 be on-site during the event. The customer incurs the cost of the  
22 technician/vendor time. In addition to the real monetary costs incurred by  
23 ITC^DeltaCom and its customer, the failure to complete the work as scheduled

1 causes the customer to lose confidence in the ability of ITC^DeltaCom to  
2 effectively manage the customer's telecommunications needs. This significantly  
3 damages the reputation and good name ITC^DeltaCom has worked so hard to  
4 establish. Conversely, without performance guarantees, BellSouth incurs no  
5 costs associated with its failure to meet a commitment. Without performance  
6 guarantees, BellSouth has both economic and competitive incentives to miss  
7 scheduled due dates. These incentives are offset somewhat by imposing a  
8 nonrecurring charge waiver on BellSouth.

9  
10 Q: IS BELLSOUTH'S POSITION CONSISTENT?

11 A: No. While Mr. Varner argues that a waiver of non-recurring charges for a missed  
12 due date is a "penalty", BellSouth, in its self-effectuating enforcement measures  
13 document agrees to refund "the Non-Recurring Charge for all orders...where  
14 BellSouth missed the due date." I attached BellSouth's Proposal for Self-  
15 Effectuating Enforcement Measures as Exhibit CJR-3 to my direct testimony. In  
16 the same document BellSouth refers to the waiver of nonrecurring charges as  
17 "enforcement payments." According to BellSouth, when it fails to meet one of its  
18 performance measures BellSouth will "compensate the CLEC based on the  
19 charges for a service BellSouth committed to perform and then did not perform  
20 as specified." This document, therefore, is contrary to Mr. Varner's view that the  
21 performance guarantees are a penalty.

1           **Issue 3(1): Should BellSouth be required to pay reciprocal**  
2           **compensation to ITC^DeltaCom for all calls that are properly routed**  
3           **over local trunks, including calls to Information Service Providers**  
4           **("ISPs")?**  
5

6 Q:       SHOULD BELLSOUTH PAY ITC^DELTACOM FOR DELIVERING ISP-BOUND  
7       TRAFFIC FOR BELLSOUTH CUSTOMERS?

8 A:       Yes. In delivering ISP-bound traffic for the customers of BellSouth,  
9       ITC^DeltaCom incurs significant costs. BellSouth must be required to  
10       compensate ITC^DeltaCom for providing this valuable service.

11  
12 Q.       MR. VARNER OFFERS THREE PROPOSALS FOR HANDLING  
13       COMPENSATION RELATED TO ISP TRAFFIC. DO YOU AGREE WITH  
14       THESE PROPOSALS?

15  
16 A.       No. Two are seriously flawed, and all three are designed to deny ITC^DeltaCom  
17       proper compensation for services provided to BellSouth and its customers.

18  
19 Q.       PLEASE DESCRIBE YOUR CONCERNS WITH MR. VARNER'S PROPOSALS.

20 A.       Mr. Varner's first option is to record the ISP-bound traffic and wait and see what  
21       the FCC does. With this approach, ITC^DeltaCom, a small company would be  
22       required to finance a huge company, BellSouth, by providing BellSouth free  
23       service until the FCC makes some decision. This approach is inappropriate and

1 financially damaging to ITC^DeltaCom. ITC^DeltaCom should be promptly  
2 compensated for service it provides BellSouth.

3 In the second proposal, Mr. Varner and BellSouth concoct an incredible  
4 scheme to have ITC^DeltaCom share its revenue for providing an ISP with a  
5 local loop. Here, ITC^DeltaCom would not only provide BellSouth free access to  
6 its network, it would actually pay BellSouth for the privilege. The ISP (or its  
7 carrier) is essentially being assessed collect call type charges for each call  
8 directed to them, thus turning what consumers recognize as local calls in to  
9 some form of collect call. The FCC never envisioned such a reversal of charges  
10 when it established its access charge exemption. The Authority should  
11 specifically find this type of pricing to be illegal.

12 Mr. Varner's third proposal is also seriously flawed. Known as "bill and  
13 keep," it allows each carrier to send traffic to the other free of charge. In  
14 situations where traffic between the carriers is essentially equal this approach  
15 would make sense. In this specific instance, however, it is inappropriate  
16 because BellSouth is sending large volumes of traffic onto ITC^DeltaCom's  
17 network, while ITC^DeltaCom is directing much smaller volumes onto the  
18 network of BellSouth. Just as BellSouth charges for UNEs, network or other  
19 services it provides, ITC^DeltaCom should be allowed to charge BellSouth for  
20 the use of its network.



1 Q. MR. VARNER CLAIMS, AT PAGE 46, THAT THE BILL AND KEEP METHOD OF  
2 EXCHANGING TRAFFIC WILL NOT HARM CLECS. IS HE CORRECT?

3 A. No. As I mentioned above, this is only appropriate in situations where carriers  
4 are exchanging similar volumes of traffic. In this specific case, BellSouth would  
5 realize substantial benefit from the free use of the ITC^DeltaCom network. The  
6 Authority should prohibit BellSouth from abusing CLECs by not paying for  
7 services it uses.  
8

9 Q. DOES MR. VARNER ACCURATELY DESCRIBE HOW ITC^DELTACOM  
10 PROVIDES SERVICE TO ISP CUSTOMERS?

11 A. No. BellSouth is describing models and services that ITC^DeltaCom does not  
12 provide. ITC^DeltaCom provides its ISP customers local service in the form of  
13 local lines purchased from local tariffs. ISPs buy these local lines or services in  
14 order to receive local calls from other end users.  
15

16 Q: IS THERE EVIDENCE THAT ITC^DELTACOM INTENDS TO SERVE NON-ISP  
17 CUSTOMERS?

18 A. Absolutely. First, ITC^DeltaCom has tariffs on file in each of the states it operates  
19 for local residential and business service. Although the number of customers  
20 ITC^DeltaCom has in this market are small when compared to BellSouth,  
21 ITC^DeltaCom continues its efforts to attract these customers. In fact,  
22 ITC^DeltaCom has not provided service to ISP end users in Tennessee as yet.

1           Second, the Authority need look no further than the evidence presented by  
2   ITC^DeltaCom in this case to determine that ITC^DeltaCom is serious about  
3   providing a wide range of local telecommunications services in Tennessee. Of the  
4   testimony filed by ITC^DeltaCom, only a fraction comprises testimony dealing with  
5   the reciprocal compensation issue. Other witnesses present testimony dealing with  
6   charges for operations support systems, performance benchmarks, parity and  
7   remedies. These issues are not specific to ITC^DeltaCom's ability to serve ISP  
8   customers, but are **critical** to the ability of ITC^DeltaCom to serve a wide range of  
9   customers.

10  
11 Q:   YOU MENTIONED THAT ITC^DELTACOM'S LOCAL MARKET SHARE IS SMALL  
12       IN COMPARISON TO THAT OF BELL SOUTH. ARE THERE REASONS FOR THAT  
13       DISCREPANCY?

14 A:   Yes. First, ITC^DeltaCom has many things to overcome as it enters the market  
15       including acquisition of adequate financing and development of name  
16       recognition among customers. Most importantly, ITC^DeltaCom must overcome  
17       the obstacles BellSouth presents as the two parties negotiate this  
18       interconnection agreement. Until these issues are resolved, ITC^DeltaCom can  
19       not make a determination as to whether aggressive market entry is warranted.  
20       Therefore, a willingness on the part of BellSouth to resolve the outstanding  
21       negotiation issues could go a long ways in resolving the market distortion issues  
22       referred to by Dr. Taylor.

1

2 Q: MR. VARNER STATES THAT LOCAL TRUNKS MAY CARRY ACCESS OR  
3 TOLL TRAFFIC. HOW IS ITC^DELTACOM'S TRUNKING NETWORK  
4 ARRANGED?

5 A: ITC^DeltaCom will have two way trunk groups in Tennessee and local traffic  
6 (including ISP traffic) will be handled on one trunk group and all other traffic will  
7 go on another trunk group.

8

9 Q: MR. VARNER STATES ON PAGE 53 THAT ISPS ARE CARRIERS. IS THIS  
10 TRUE?

11 A: No. In fact it is factually incorrect. ISPs do not currently obtain certificates of  
12 authority to provide telecommunications services in Tennessee nor are they  
13 regulated as carriers by the FCC.

14

15 Q: ARE YOU AWARE OF ANY DECISIONS BY THE FCC THAT SPECIFICALLY  
16 STATE ISPS ARE CARRIERS?

17 A: No. Although Mr. Varner states that ISPs are carriers, he does not provide the  
18 order or ruling to support this statement. After much research, I found the  
19 following:

20 First, based on FCC rules, it is not appropriate to treat ISPs as carriers. In  
21 the FCC's *Computer II Inquiry* (77 FCC 2 d 384, 387 – released May 2, 1980),  
22 the FCC found that ESPs (of which ISPs are a subset) are not common carriers

1 within the meaning of Title II of the Communications Act. This FCC decision was  
2 codified in FCC rule 64.702. Section 64.702 of the FCC rules provides:

3 [T]he term enhanced service shall refer to services offered over common  
4 carrier transmission facilities used in interstate communications which  
5 employ computer processing applications that act on the format, content,  
6 code, protocol or similar aspects of the subscriber's transmitted  
7 information; provide the subscriber additional, different or restructured  
8 information, or involve subscriber interaction with stored information.  
9 Enhanced services are not regulated under Title II of the Act. [emphasis  
10 added]  
11

12 Second, FCC regulations clearly specify that ISPs are to be treated as end  
13 users. The FCC's declaratory ruling at paragraph 15 specifically comments on  
14 the status of ISPs:

15 The Commission's treatment of ESP [enhanced service providers, of  
16 which ISPs are a subset] traffic dates from 1983 when the Commission  
17 first adopted a different access regime for ESPs. Since then, the  
18 Commission has maintained the ESP exemption, pursuant to which it  
19 treats ESPs as end users under the access charge regime and permits  
20 them to purchase their links to the PSTN through intrastate local  
21 business tariffs rather than through interstate access tariffs. As such,  
22 the Commission discharged its interstate regulatory obligations  
23 through the applications of local business tariffs. Thus, although  
24 recognizing that it was interstate access, the Commission has treated  
25 ISP-bound traffic as though it were local. [emphasis added]  
26

27 Mr. Varner's characterization of ISPs as carriers rather than end users is  
28 incorrect and this nullifies his argument that ITC^DeltaCom should share  
29 revenues it receives from its ISP customers with BellSouth.  
30

1 Q: DO YOU AGREE WITH BELL SOUTH'S POSITION THAT RECIPROCAL  
2 COMPENSATION RATES ARE NOT APPLICABLE TO ISP BOUND TRAFFIC  
3 AND THAT THIS COMMISSION SHOULD NOT ADDRESS THIS ISSUE?

4 A: No, I do not. The FCC's *Declaratory Ruling in C.C. Docket No. 96-98 and Notice*  
5 *of Proposed Rulemaking in CC Docket No. 99-68* (hereafter "*Declaratory*  
6 *Ruling*"), provides to the states an enormous responsibility to determine the  
7 proper compensation that carriers should receive for this traffic until a national  
8 rule is established. The following excerpt from paragraph 26 of the FCC's  
9 *Declaratory Ruling* is dispositive:

10 Although reciprocal compensation is mandated under Section 251(b)(5) only  
11 for the transport and termination of local traffic, neither the statute nor our  
12 rules prohibit a state commission from concluding in an arbitration that  
13 reciprocal compensation is appropriate in certain instances not addressed  
14 by section 251(b)(5), so long as there is no conflict with governing federal  
15 law. A state commission's decision to impose reciprocal compensation  
16 obligations in an arbitration proceeding – or a subsequent state commission  
17 decision that those obligations encompass ISP-bound traffic – does not  
18 conflict with any Commission rule regarding ISP-bound traffic. By the same  
19 token, in the absence of governing federal law, state commissions also are  
20 free not to require the payment of reciprocal compensation for this traffic and  
21 to adopt another compensation mechanism. [footnotes omitted, emphasis  
22 added]  
23

24 Q: ARE THERE OTHER NOTEWORTHY SECTIONS WITHIN THE FCC  
25 DECLARATORY RULING?

26 A: Yes. In paragraph 29 the FCC states:

27 We acknowledge that, no matter what the payment arrangement, LECs  
28 incur a cost when delivering traffic to an ISP that originates on another  
29 LEC's network.  
30

1 From these two paragraphs it is clear that while a state Commission is "...free  
2 not to require the payment of reciprocal compensation for this traffic..." if it  
3 chooses this path it must "adopt another compensation mechanism." Thus, the  
4 FCC does not sanction simply ignoring the issue.

5  
6 Q: HASN'T THE FCC SPECIFICALLY HELD THAT ISP-BOUND TRAFFIC IS  
7 INTERSTATE IN NATURE?

8 A: Yes. That is discussed in footnote number 87 in the FCC's *Declaratory Ruling*.  
9 However, the issue of determining the appropriate level of compensation for ISP  
10 bound traffic isn't simplified by this finding. In its *Declaratory Ruling* the FCC  
11 makes it clear that in the past it has treated ISP bound traffic as local in nature  
12 and as I discussed earlier the FCC has left it to the State Commissions to  
13 establish compensation mechanisms based upon this assumption in the future.

14  
15 Q: WHY DO YOU STATE THAT RECIPROCAL COMPENSATION RATES MAY  
16 STILL BE APPLICABLE TO ISP-BOUND TRAFFIC?

17 A: The FCC has obviously left the state commissions to determine an appropriate  
18 rate of compensation one LEC should pay another for ISP-bound traffic. It  
19 appears that the FCC has given the state commissions an option to either adopt  
20 the reciprocal compensation rates that they have already put in place as  
21 reasonable payment for all other types of local traffic, or, to construct another  
22 means of compensation specific to ISP-bound traffic. Hence, while ISP-bound

1 traffic may no longer meet the legal definition of "local traffic" that the FCC has  
2 found appropriate for compensation under Section 251(b)(5) of the  
3 Telecommunications Act, the FCC has given a strong indication that such  
4 reciprocal compensation rates are a good place to start when determining  
5 reasonable rates for ISP-bound traffic.

6  
7 Q: HAVE OTHER STATE COMMISSIONS MADE DECISIONS IN THIS RESPECT  
8 SINCE THE FCC ISSUED ITS DECLARATORY RULING?

9 A: Yes. 16 states have issued decisions since the FCC's issuance of its  
10 Declaratory Ruling. Among those that have interpreted the FCC's Declaratory  
11 Ruling for purposes of governing interconnection agreements within their intra-  
12 state jurisdictions, the Maryland Commission provides the most reasoned  
13 reading to date of the FCC's intentions. In *Order No. 75280* at pages 16 and 17  
14 the Maryland Commission finds as follows:

15 Thus, under the FCC's *ISP Order*, it is incumbent upon this Commission  
16 to determine an interim cost recovery methodology which may be used  
17 until the FCC completes its rulemaking on this issue and adopts a federal  
18 rule governing inter-carrier compensation arrangements.

19  
20 In fact, according to the FCC, "State commissions are free to require  
21 reciprocal compensation for ISP-bound calls, or not require reciprocal  
22 compensation and **adopt another compensation mechanism**, bearing  
23 in mind that ISP/ESPs are exempt from paying access charges." This  
24 directive does not leave us the option of providing for no compensation  
25 for ISP-bound calls. State commissions must either require reciprocal  
26 compensation or develop another compensation mechanism. To fail to  
27 provide for any compensation would violate the 1996 Act, which states:  
28

1 A State commission shall not consider the terms and conditions for  
2 reciprocal compensation to be just and reasonable unless such  
3 terms and conditions provide for the mutual and reciprocal  
4 recovery by each carrier of costs associated with the transport and  
5 termination on each carrier's network facilities of calls that originate  
6 on the network facilities of the other carrier. 47 USC §  
7 252(d)(2)(A).  
8

9 We are very concerned that the adoption of BA-MD'S position will result  
10 in CLECs receiving no compensation for terminating ISP-bound traffic.  
11 Such an effect will be detrimental to our efforts to encourage competition  
12 in Maryland. No one disputes that local exchange carriers incur costs to  
13 terminate the traffic of other carriers over their network. In the absence of  
14 finding that reciprocal compensation applies, a class of calls (ISP traffic)  
15 will exist for which there is no compensation. The reciprocal  
16 compensation rates established by our arbitration order and contained in  
17 the approved Statement of Generally Available Terms ("SGAT") reflect  
18 the costs of this termination. Until the FCC establishes an appropriate  
19 inter-carrier compensation mechanism for ISP-bound traffic, we find that it  
20 is in the public interest to require BA-MD to pay our arbitrated reciprocal  
21 compensation rates contained in the SGAT as an **interim** compensation  
22 mechanism. [footnotes omitted, emphasis in original]  
23  
24

25 Q: MR. VARNER SUGGESTS IN HIS TESTIMONY ON PAGE 29 THAT  
26 "COMPENSATION FOR ISP TRAFFIC IS NOT PROPERLY THE SUBJECT OF  
27 AN ARBITRATION UNDER SECTION 252 OF THE ACT." DO YOU AGREE?

28 A: No, I do not and neither does the FCC. In footnote 87, found in paragraph 26 of  
29 the FCC's *Declaratory Ruling*, the FCC states as follows:

30 As discussed, *supra*, in the absence of a federal rule, state commissions  
31 have the authority under section 252 of the Act to determine inter-carrier  
32 compensation for ISP-bound traffic.

33 Moreover, in its *Notice of Proposed Rulemaking* included as a portion of its  
34 *Declaratory Ruling*, the FCC tentatively concludes that even if the FCC ultimately



adopts a federal policy, states should still set inter-carrier compensation rates for  
ISP-bound traffic:

30. We tentatively conclude that, as a matter of federal policy, the inter-carrier compensation for this interstate telecommunications traffic [ISP-bound traffic] should be governed prospectively by interconnection agreements negotiated and arbitrated under sections 251 and 252 of the Act. Resolution of failures to reach agreement on inter-carrier compensation for interstate ISP-bound traffic then would occur through arbitrations conducted by state commissions, which are appealable to federal district courts.

Q: MR. VARNER BELIEVES THAT RECIPROCAL COMPENSATION FOR ISP-  
BOUND TRAFFIC IS INCONSISTENT WITH SOUND PUBLIC POLICY. DO YOU  
AGREE?

A: No, I do not. Good public policy and sound economic principles require the  
Commission to reject BellSouth's proposal and find that ITC^DeltaCom must be  
allowed to recover the costs it incurs for carrying BellSouth's traffic.

**Issue 3(2): What should the rate be for reciprocal compensation per minute  
of use, and how should it be applied?**

Q. HAVE THE PARTIES AGREED TO A RECIPROCAL COMPENSATION RATE?

A. No.

Q. WHERE DO THE PARTIES STAND ON THIS ISSUE?

1 A. ITC^DeltaCom originally proposed the rate that is in our current agreement, \$.009  
2 per minute of use. This is the rate approved by this Authority as compliant with  
3 Sections 251 and 252 of the Act. I have proposed a rate of \$.0045 per MOU for  
4 the first year, with a reduction of \$.0005 per MOU per year until the rate equals  
5 BellSouth's proposed elemental rate. As always, ITC^DeltaCom stands ready to  
6 negotiate a fair and equitable solution to this issue.

7 **Issue 2: What is the definition of parity?**

8 **Pursuant to this definition, should BellSouth be required to provide the**  
9 **following and if so, under what circumstances and at what rates: Operational**  
10 **Support Systems ("OSS"), UNEs, Access to Numbering Resources and an**  
11 **unbundled loop using Integrated Digital Loop Carrier ("IDLC") technology?**  
12

13 Q: MR. VARNER CLAIMS THAT BELLSOUTH IS ALREADY OBLIGATED, BY THE ACT  
14 AND FCC RULES TO PROVIDE ITC^DELTACOM AND ANY OTHER CLEC  
15 NONDISCRIMINATORY ACCESS TO TELECOMMUNICATIONS SERVICES,  
16 UNBUNDLED NETWORK ELEMENTS, AND INTERCONNECTION. IS THAT  
17 OBLIGATION SUFFICIENT PROTECTION FOR ITC^DELTACOM?

18 A: No it is not. First of all, it simply makes good sense to include specific language to  
19 enhance the parties' understanding of their commitments. While Mr. Varner is  
20 correct that BellSouth is required by the Telecommunications Act, FCC Rules and  
21 Orders, and State Commission Orders to provide nondiscriminatory access and  
22 parity of service to that which BellSouth provides to itself, its affiliates and  
23 subsidiaries, and other requesting telecommunications providers, ITC^DeltaCom

1 simply wants specific contract language in the parties' Interconnection Agreement  
2 to make clear the parties' obligations under the law.

3  
4 Q: WHAT IS YOUR UNDERSTANDING OF MR. VARNER'S CLAIM THAT  
5 BELL SOUTH IS OFFERING SERVICES AT PARITY?

6 A: Mr. Varner claims, "BellSouth complies with its obligations under the Act and FCC  
7 Orders to provide services to CLECs in a nondiscriminatory manner." As stated  
8 above, it is ITC^DeltaCom's position that clear and explicit language must be  
9 included in our interconnection agreement because we are not receiving service  
10 quality "at least equal in quality to that which the incumbent LEC provides itself."  
11 This is extremely troubling, because we often sell the new customer service that is  
12 very similar or identical to the service it previously received from BellSouth.  
13 Further, ITC^DeltaCom believes that BellSouth often takes apart the customer's  
14 existing service and reassembles it in a substandard manner. This is clearly not the  
15 intent of the "at least equal in quality" clause quoted above. For example, with  
16 regard to unbundled network elements, Mr. Varner claims that ITC^DeltaCom is  
17 requesting "an impossible circumstance, not parity." BellSouth states that it does  
18 not provide UNEs to itself or its retail customers, and thus, BellSouth is not required  
19 to provide parity. Mr. Varner, however, correctly states that BellSouth is required  
20 to provide UNEs in a manner that allows ITC^DeltaCom a meaningful opportunity  
21 to compete. This does not mean that BellSouth may provide substandard service  
22 to ITC^DeltaCom. Unbundled Network Elements are simply pieces of the network

1 that BellSouth, just as ITC^DeltaCom, combines to make a finished service.  
2 ITC^DeltaCom, in order to have a meaningful opportunity to compete, should be  
3 able to purchase unbundled network elements from BellSouth such that the  
4 individual elements are equal to the quality of the same elements that are found in  
5 BellSouth's retail services.

6  
7 Q: HAS THE FCC FURTHER DEFINED PARITY?

8 A: Yes. In its First Report and Order, released Aug. 8, 1996, the FCC provided the  
9 following:

10 Accordingly, we conclude that the phrase "nondiscriminatory access"  
11 in section 251(c)(3) means at least two things: first, the quality of an  
12 unbundled network element that an incumbent LEC provides, as well  
13 as the access provided to that element, must be equal between all  
14 carriers requesting access to that element; second, where technically  
15 feasible, the access and unbundled network element provided by an  
16 incumbent LEC must be at least equal-in-quality to that which the  
17 incumbent LEC provides to itself.<sup>3</sup> [Para. 312]  
18

19 The footnote to this passage is also enlightening:

20 "We note that providing access or elements of lesser quality than that  
21 enjoyed by the incumbent LEC would also constitute an "unjust" or  
22 "unreasonable" term or condition." <sup>4</sup>  
23

24 This means that each time BellSouth delivers ITC^DeltaCom an unbundled  
25 network element, such as a local loop, of lesser quality than it provided itself in  
26 the process of providing service to the same end user, it is in violation of the Act.

---

<sup>3</sup> *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*,  
First Report and Order, CC Docket No. 96-98 ¶ 312 (August 8, 1996).

<sup>4</sup> *Id.* at ¶ 312, footnote 676.

1

2 Q: IS IT TRUE THAT THE FCC ALLOWS BELLSOUTH TO PROVIDE LOCAL LOOPS  
3 OF LESSER QUALITY TO CLECS THAN IT PROVIDES TO ITSELF?

4 A: No. In fact, paragraph 313 of the first Report and Order the FCC states:

5 We believe that Congress set forth a "nondiscriminatory access"  
6 requirement in section 251(c)(3), rather than an absolute equal-in-  
7 quality requirement, such as that set forth in section 251(c)(2)(C),  
8 because, in rare circumstances, it may be technically infeasible for  
9 incumbent LECs to provide requesting carriers with unbundled  
10 elements, and access to such elements, that are equal-in-quality to  
11 what the incumbent LECs provide themselves.<sup>5</sup>  
12

13 In order for BellSouth to gain permission to provide local loops of lesser quality to  
14 ITC^DeltaCom, BellSouth must prove to the state commission that it is technically  
15 infeasible to provide access to unbundled elements, or the unbundled elements  
16 themselves, at the same level of quality that the incumbent LEC provides itself.

17

18 Q: HAS BELLSOUTH MADE SUCH A SHOWING OF PROOF BEFORE THIS  
19 AUTHORITY?

20 A: I am not aware of such a filing.

21

22 **Issue 7(b)(iv): Which party should be required to pay for the Percent Local**  
23 **Usage (PLU) and Percent Interstate Usage (PIU) audit, in the event such audit**  
24 **reveals that either party was found to have overstated the PLU or PIU by 20**  
25 **percentage points or more?**  
26

---

<sup>1</sup> <sup>5</sup> *Id* at ¶ 313.

1 Q: WHAT IS ITC^DELTACOM'S RESPONSE TO BELL SOUTH'S POSITION ON THE  
2 ISSUE OF WHO PAYS FOR AUDITS?

3 A: ITC^DeltaCom agrees that the party requesting an audit should bear the cost.  
4 ITC^DeltaCom, however, would point out that BellSouth's proposed language  
5 contains a penalty provision. BellSouth's states that if the "audit reveals that a  
6 CLEC has overstated the PLU/PIU percentages by 20 percentage points or more,  
7 that CLEC should pay for the audit." BellSouth argues that the Authority is not  
8 allowed to approve the performance guarantees ITC^DeltaCom has proposed in  
9 Attachment 10 (penalties according to BellSouth), but then, argues that it is totally  
10 justified in demanding a penalty requirement when its auditors find an error in  
11 ITC^DeltaCom's PLU/PIU percentage. Further, Mr. Varner claims that this is  
12 "industry practice and custom." ITC^DeltaCom disagrees with this claim. Our  
13 current agreement with BellSouth does not include such language, nor does any  
14 other interconnection agreement that ITC^DeltaCom has entered into with other  
15 ILECs.

16 Given BellSouth's demands for penalties here and elsewhere in the  
17 interconnection agreement, ITC^DeltaCom requests that the Authority rule that  
18 penalties may be included in the parties' interconnection agreement.

19 **Issue 8(b): Should the losing party to an enforcement proceeding or**  
20 **proceeding for breach of the interconnection agreement be required to pay**  
21 **the costs of such litigation?**

22  
23 Q: WOULD THIS PROVISION ENCOURAGE FORUM SHOPPING AS ARGUED BY  
24 MR. VARNER?

1 A: No. First, the proposed language is in the Parties existing interconnection  
2 agreement so BellSouth has agreed to this language previously. It did not produce  
3 any forum shopping that we are aware of. Second, the purpose of this provision is  
4 to encourage parties to meet their commitments under this agreement. If either  
5 party fails to meet its commitments and the issue is adjudicated, the responsible  
6 party pays the price for not settling the dispute in addition to its failure to meet the  
7 terms of the agreement. This provision actually encourages parties to settle rather  
8 than face a negative decision. It is ironic that BellSouth is not arguing for this  
9 provision, as it would be in BellSouth's best interest to defray the costs of its  
10 defense, assuming, of course, BellSouth prevailed.

11  
12 **Issue 8(e): Should language covering tax liability should be included in the**  
13 **interconnection agreement, and if so, should that language simply state that**  
14 **each Party is responsible for its own tax liability?**  
15  
16

17 Q: MR. VARNER STATES THAT THE CONTRACT SHOULD CLEARLY DEFINE THE  
18 PARTIES OBLIGATIONS. DO YOU AGREE?

19 A: Yes. Even though we did not have tax language in our last agreement and have not  
20 had any problems on this issue, ITC^DeltaCom proposed tax language as an  
21 alternative to the confusing and lengthy language proposed by BellSouth.  
22 ITC^DeltaCom does not know why its proposed language is not suitable. The  
23 language ITC^DeltaCom proposed comes from its interconnection agreements with  
24 other ILECs. A careful reading of BellSouth's language shows that it is, in places,

1 inconsistent and confusing. ITC^DeltaCom's position is simply that each Party  
2 should comply with all applicable local, state and federal rules and regulations.

3  
4 **Issue 8(f): Should BellSouth be required to compensate ITC^DeltaCom for**  
5 **breach of material terms of the contract?**  
6

7 Q: DOES THE TRA HAVE AUTHORITY TO IMPOSE PENALTIES?

8 A: Yes. As stated earlier in my testimony, I am not a lawyer but I believe that the TRA  
9 does have all necessary authority to impose penalties and does so today.  
10 However, if this Authority determines that it is not appropriate to assess penalties  
11 or damages then I would point out that the TRA can still arbitrate this issue just as  
12 it can arbitrate the issue of whether tax language should be included in the  
13 agreement. Thus, I disagree with Mr. Varner that this issue cannot be arbitrated  
14 just because the authority that would hear the dispute may not be the TRA but a  
15 court of a competent jurisdiction.

16  
17 Q: DOES THIS CONCLUDE YOUR TESTIMONY.

18 A: Yes, however at this time the Parties positions continue to evolve as we continue  
19 to negotiate with BellSouth and we receive responses to discovery. To the extent  
20 my opinions are impacted by such developments, I intend to supplement my  
21 testimony.



**EXHIBIT CJR-1**  
**TO REBUTTAL TESTIMONY OF CHRISTOPHER J. ROZYCKI**

SOUTH CENTRAL BELL  
TELEPHONE COMPANY  
TENNESSEE

## PRIVATE LINE SERVICES TARIFF

Original Page 39

ISSUED: October 14, 1994  
BY: President - Tennessee  
Nashville, Tennessee

EFFECTIVE: November 18, 1994

## B7. DIGITAL NETWORK SERVICE

## B7.8 SMARTPath® Service (Cont'd)

## B7.8.1 General (Cont'd)

- G. DS1s carried over Synchronous Optical Network (SONET) transport systems can incur phase transients as a result of pointer adjustments. In some instances timing problems could surface in customer's equipment with Stratum 3 or better clocks. This may result in the customer's clock disqualifying its synchronization reference, generating an alarm and/or selecting an alternate reference or entering holdover. To insure proper operation, channelized DS1 circuits must comply with Bellcore Technical Advisory, TA-NWT-000436, Digital Synchronization Network Plan, and ANSI T1.101-1994. When timing is taken from a Company transported DS1, the customer's equipment must be capable of accommodating SONET pointer adjustments.

## B7.8.2 Regulations

## A. Description of Service

1. SMARTPath® service provides a transport link between a customer designated premises where the network is accessed and (1) another customer designated premises, in the same SMARTPath® service Area or (2) a serving wire center in the same SMARTPath® service Area for connection to (a) MegaLink® Channel Service, FlexServ® service, or LightGate® service, or (b) a SMARTPath® service Area Junction of another SMARTPath® service area in the same Metropolitan Area.
2. The performance objectives for SMARTPath® service are as follows:
  - a. Meet or exceed 99.99 percent Circuit Availability on a monthly basis. This objective applies except where a customer's equipment is disconnected and/or inoperative.
  - b. Meet or exceed 99.95 percent Error Free Seconds on a monthly basis.
  - c. Meet or exceed .009 percent Severely Errored Seconds on a monthly basis.
3. The performance guarantee for SMARTPath® service is as follows:
  - a. Guaranteed Service Installation - the Company will meet negotiated due date or credit an amount equal to the nonrecurring charge according to the Service Installation Guarantee described in B2.4.17.
  - b. Service Continuity - in the event of primary facility failure, service is guaranteed to switch to an alternate facility path in sixty seconds or less. Failure to meet this guarantee will result in a credit as described in B7.8.2.E.2. following where the trouble is in the network on public right-of-way.

## B. Definitions

## SMARTPath® service Area Connection

The SMARTPath® service Area Connection provides for the connection at the designated premises where the customer gains access to SMARTPath® service and transport to a designated junction in the same SMARTPath® service Area.

## SMARTPath® service Area Junction

The SMARTPath® service Area Junction provides for the connection between the SMARTPath® service network and (1) another customer designated premises, in the same SMARTPath® service Area or (2) a serving wire center in the same SMARTPath® service Area for connection to (a) DS1 Basic Channelization, FlexServ service, or LightGate service, or (b) a SMARTPath® service Area Junction of another SMARTPath® service Area in the same Metropolitan Area.

## C. Application of Rates

1. Monthly rates and charges as specified in B7.8.3 following apply for each SMARTPath® service. The transport provided within a SMARTPath® service Area is provided at 1.544 Mbps. Rate categories include a SMARTPath® service Area Connection, and a SMARTPath® service Area Junction.

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
TENNESSEE

## PRIVATE LINE SERVICES TARIFF

Original Page 43

ISSUED: November 15, 1996

EFFECTIVE: December 17, 1996

BY: President - Tennessee

Nashville, Tennessee

**B7. DIGITAL NETWORK SERVICE****B7.9 MegaLink® Plus Service****B7.9.1 General**

- A. MegaLink® Plus service is furnished for Private Line IntraLATA Communications by the Company.
- B. MegaLink® Plus service is a service for transmission of digital signals only and uses only digital transmission facilities.
- C. MegaLink® Plus service is a fiber-based high capacity network service providing a 1.544 Mbps transport link with high performance and reliability parameters. This service utilizes structurally diverse loop facilities designed to limit single points of failure between a customer's location and its normal serving wire center.
- D. MegaLink® Plus service is available to customer locations where existing loop facilities are fiber-based and utilize structurally diverse routes. For locations where loop facilities are not available to satisfy customer requests for MegaLink® Plus service, special construction charges will apply as set forth in Section B5. preceding.
- E. The technical specifications and standard network interfaces for MegaLink® Plus service are contained in BellSouth Technical Reference Publication 73525. This publication is available from Regional Documentation Services, 600 North 19th Street, 20th Floor, Birmingham, Alabama 35203.

**B7.9.2 Regulations****A. Description of Service**

- 1. MegaLink® Plus service utilizes a self-healing diverse fiber-based local channel (loop) transport link between a customer designated premises and the normal serving wire center.
- 2. MegaLink® Plus service is furnished on a link (partial) basis for connection at the normal serving wire center to another MegaLink® Plus service, an ESSX® service<sup>1</sup>, MegaLink® channel service, FlexServ® service, LightGate® service, or SMARTRing® service. Connectivity between MegaLink® Plus service and these other services may be provided via a MegaLink® service Interoffice Channel between central offices.
- 3. All appropriate rates, charges, rules and regulations specified in other tariff sections for connected services are in addition to those for MegaLink® Plus service specified in this tariff.
- 4. Performance objectives for MegaLink® Plus service between the customer's location and the serving wire center are as follows:

- a. Meet or exceed 99.98 percent Circuit Availability.
- b. Meet or exceed 99.95 percent Error Free Seconds.
- c. Meet or exceed .010 Severely Errored Seconds.

The objectives apply except when a customer's equipment and/or cabling is disconnected and/or inoperative, or when a MegaLink® service Interoffice Channel is used in conjunction with a MegaLink® Plus service Local Channel. Consult TR73525 for additional information concerning service performance objectives.

- 5. Performance guarantees for MegaLink® Plus service are as follows:

**a. Service Installation**

The Company will meet negotiated due date or credit an amount equal to the month-to-month payment plan nonrecurring charge according to the Service Installation Guarantee provisions described in B2.4.17 preceding.

**b. Service Continuity**

In the event of primary failure, service is guaranteed to switch to an alternate facility path in sixty seconds or less. Failure to meet this guarantee will result in a credit as described in E.3. following where the trouble is in the local loop facility on public right-of-way.

**Note 1:** Connection from MegaLink® Plus service to ESSX® service may not be available from all serving wire centers.

<sup>1</sup> Registered Service Mark of BellSouth Corporation

SOUTH CENTRAL BELL  
TELEPHONE COMPANY  
TENNESSEE  
ISSUED: August 18, 1995  
BY: President - Tennessee  
Nashville, Tennessee

## PRIVATE LINE SERVICES TARIFF

Third Revised Page 11.5  
Cancels Second Revised Page 11.5  
EFFECTIVE: September 19, 1995

**B2. REGULATIONS****B2.4 Payment Arrangements and Credit Allowances (Cont'd)****B2.4.15 Billing of Private Line Service Provided by Multiple Companies**

- A. Each company will bill for the portion of the private line service provided by their respective tariff based on their regulations, rates and charges as appropriate.
- B. The charges billed by this Company for the interoffice channel between Exchange Telephone Company central offices, are determined as follows:
  1. The total mileage for the service is computed using the V&H coordinates set forth in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4.
  2. A billing factor is determined from the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4. This factor represents the percentage of the distance between Exchange Telephone Company central offices that will be billed by this Company. The billing factor is multiplied by the total charge for all of the miles to determine the amount to be billed by the Company.
  3. For the fixed recurring rate element and the Nonrecurring Charge associated with the interoffice channel between Exchange Telephone Company central offices, fifty percent of the Company's rate will apply for each end of the interoffice channel provided. If this Company does not bill for either end of the interoffice channel, then the fixed recurring charge and nonrecurring charge shall not apply.

**B2.4.16 Commitment Guarantee Program<sup>1</sup>**

- A. General
  1. The Commitment Guarantee Program will provide a credit to Private Line service customers should the Company fail to meet its commitment in connection with installation or repair of service(s) provided via Company facilities. The term "Commitment" denotes an undertaking by the Company to install or repair service(s) as agreed to by the Company.
  2. The failure of the Company to meet its commitment will result in a credit being applied to the customer's bill, when contact is initiated by the customer, unless an exception is applicable.
  3. Where a service is jointly provided with another Local Exchange Carrier (LEC), the guarantee is applicable only to installation or repair commitments made to customers by the Company. This guarantee is not applicable to commitments made by other LECs, regardless of their concurrence in this Tariff.
- B. Application
  1. In the event Company contact is initiated by the customer, in reference to the provisions of A. preceding, the Company will arrange for a credit of \$100.00 for the missed commitment, unless an exception is applicable. The credit will be applied against the total amount due on the customer's bill.
  2. One credit will apply, under the provisions of 1. preceding, per customer commitment missed.
  3. More than one attempt to invoke the guarantee for the same commitment and customer will be disallowed.
  4. The credit will apply in addition to waivers, promotions, or other guarantees in effect at the time of the missed commitment unless specifically excluded.
  5. The guarantee is applicable to services provided in this Tariff except as noted in C. following.
  6. Receipt of a credit under the provisions of 1. through 5. preceding will have no effect on recurring rates, nonrecurring charges, or minimum service periods according to the appropriate schedules for services filed elsewhere in this Tariff.
  7. Credits issued to a customer's account, in excess of the total monthly rate in any one billing period, may be applied to the following monthly billing period.
  8. When service is terminated, any credit due will be applied to the final amount due the Company.
  9. The program may be suspended by the Company during or following a natural disaster.

Note 1: The implementation date for the Commitment Guarantee Program will be October 23, 1995.

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
TENNESSEE  
ISSUED: February 19, 1996  
BY: President - Tennessee  
Nashville, Tennessee

## PRIVATE LINE SERVICES TARIFF

Second Revised Page 11.6  
Cancels First Revised Page 11.6

EFFECTIVE: March 20, 1996

**B2. REGULATIONS****B2.4 Payment Arrangements and Credit Allowances (Cont'd)****B2.4.16 Commitment Guarantee Program<sup>1</sup> (Cont'd)****C. Exceptions**

The Commitment Guarantee Program credit will not apply to:

1. commitments missed as a result of action initiated by, or information omitted by, the customer, any other customer, or any third party.
2. maintenance requests resulting from:
  - a. interruptions of service due to the failure of equipment or systems provided by others,
  - b. interruptions of a service where the Company is not afforded access to the premises where the service is terminated,
  - c. interruptions of service which continue because of the failure of the customer to authorize replacement of any element of service having separate replacement charges,
  - d. negligence, or a willful act by the customer, or
  - e. suspension of service for non-payment of charges.
3. commitments missed during or as a result of labor difficulties, governmental orders, civil commotion, criminal actions against the Company, natural or man-made disasters, war, general network failures, a declared national emergency, or any other circumstances beyond the control and/or knowledge of the Company.
4. service(s) provided in conjunction with disaster relief.

**B2.4.17 Service Installation Guarantee**

- A. The Company assures that orders for services to which the Service Installation Guarantee applies will be installed and available for customer use no later than the Service Date which is the date service is to be made available to the customer. The Service Installation Guarantee is applicable only to services as specified in subsequent tariff sections.
- B. The failure of the Company to meet this commitment will result in the credit of an amount equal to the nonrecurring charges associated with the individual service having the missed Service Date being applied to the customer's bill. The credit will include only nonrecurring charges associated with the services subject to Service Installation Guarantee, as specified in subsequent sections, for which nonrecurring charges are applicable. The nonrecurring charges will be credited at the rate at which they were billed. The credit will not be provided if a credit of the same nonrecurring charge for the same service is provided under any other provisions of this Tariff.
- C. Service Installation Guarantees do not apply:
  1. when failure to meet the Service Date occurs because of:
    - a. any act or omission of the customer, any other customer or any third party, or of any other entity providing a portion of the service,
    - b. labor difficulties, governmental orders, civil commotions, criminal actions against the Company, acts of God, war, or other circumstances beyond the Company's control,
    - c. unavailability of the customer's facilities and/or equipment,
  2. to service requiring construction charges as set forth in Section B5. following,
  3. to Specialized Service or Arrangements, and
  4. for jointly provisioned services
  5. to other telephone companies concurring in the rates and regulations of the Company.

In addition, Service Installation Guarantees will not apply during a declared National Emergency. Priority installation of National Security Emergency Preparedness (NSEP) telecommunications services shall take precedence.

(N)

Note 1: The implementation date for the Commitment Guarantee Program will be October 23, 1995.

## **A2. GENERAL REGULATIONS**

### **Checks for Unauthorized Devices (Cont'd)**

#### **6.1 General (Cont'd)**

The Company shall not be liable or responsible for any damage or harm that may occur as the result of unauthorized device or the failure of the Company to detect unauthorized devices on the subscriber's line.

### **Commitment Guarantee Program**

#### **7.1 General**

The Commitment Guarantee Program provides a credit to residence and business customers should the Company fail to meet its commitment in connection with installation or repair of service provided over the Company's facilities.<sup>1</sup>

#### **7.2 Application**

When initiated by the customer, the Company will arrange for a credit of \$25.00 on a residence account or \$100.00 on a business account for the missed commitment, unless an exception is applicable. The credit will be applied against the total amount due on the customer's bill.

One credit will apply per customer request for a commitment missed for installation or repair. A customer request includes the service that is to be installed or repaired on the same date and on the same system. Multiple attempts to invoke the guarantee for the same commitment and for the same customer are not to be considered as separate requests.

The credit will apply in addition to waivers, promotions, or other guarantees in effect at the time of the missed commitment unless specifically excluded.

The plan may be suspended by the Company during or following a natural disaster such as described in A4.2.6.

The guarantee is applicable to services provided in this Tariff except as noted in A2.17.3 following.

#### **7.3 Limitations**

The Commitment Guarantee Program credit will not apply to:

1. Commitments missed due to customer initiated action.
2. Maintenance requests resulting from negligence, willful act of the subscriber or suspension of service for non-payment of charges.
3. Commitments missed during or as a result of labor difficulties, natural disasters, governmental orders, civil commotion, general network failure, or circumstances beyond the control and/or knowledge of the Company.
4. Services provided in conjunction with disaster relief in Section A4.
5. Directory Advertising.
6. (DELETED)
7. 911 and E911 services.
8. Active and retired employees.
9. Interconnection of Mobile Services in Section A35.

**Note 1:** Where a service is jointly provided with another Local Exchange Carrier, the guarantee is applicable only to the installation or repair commitment made by the Company to end use. This guarantee is not applicable to commitments made by other Local Exchange Carriers regardless of their concurrence in this Tariff.

## A35. INTERCONNECTION OF MOBILE SERVICES

### 35.1 Interconnection Services for Mobile Service Providers (MSP's)

#### A35.1.1 General

- A. The services offered herein are for use by Mobile Service Providers (MSP's) to allow interconnection of the wireless or network of these carriers to that part of the Public Switched Network (PSN) owned and operated by the Company. (MSP commercial mobile radio services (CMRS) providers operating under authority of the FCC, as defined in the FCC Rule Regulations, Part 20. The term MSP shall also include authorized resellers of CMRS and prospective CMRS providers have been declared spectrum auction winners by the FCC.) Circuits furnished by the Company to Mobile Service Providers (MSP's) which do not connect to the PSN, such as radio transmitter control links, are not covered in this Tariff.
- B. Except as noted, services provided in this Section are subject to all general regulations applicable to the provision of service by the Company as stated in Section A2. of this Tariff.
- C. The services provided under this Tariff shall be used by the MSP only for the handling of traffic originating or terminating on the MSP's network in conjunction with its authorized services.
- D. The services provided by the Company shall not be connected together by the MSP, except on an ancillary basis such as forwarding, for the purpose of completing a call from one landline telephone to another landline telephone.
- E. DS1 Service
  - 1. The price for a digital trunk termination used in providing DS1 service for twenty-four voice equivalent channels contemplates the termination of all twenty-four channels at the same Company switch and at the same physical location at the Company switch. When the mixing of services on the same DS1 does not meet requirements, the rates and charges for less than twenty-four voice equivalent channels are applicable.
  - 2. The mixing of "line side" and "trunk side" services on the same DS1 is considered to be terminating service at different physical locations at the Company switch. *BellSouth CMRS Local Loop Lines*, one-way outward *BellSouth CMRS Local Loop Trunks*, and two-way *BellSouth CMRS Local Loop Trunks* are "line side" connections to the Company switch. One-way inward *BellSouth CMRS Local Loop Trunks*, *BellSouth CMRS Type 1*, *BellSouth CMRS Type 2A*, *BellSouth CMRS Type 2B*, and 800/DID Service Access trunks are considered "trunk side" connections to the Company switch.
  - 3. Because *BellSouth CMRS Type 1* and *BellSouth CMRS Type 2A* terminate at different physical locations at the Company switch, then the mixing of these services on the same DS1 requires that the rates for less than twenty-four voice equivalent channels be applied.
- F. Service Installation Guarantee
  - 1. The company assures that orders for services will be installed and available for customer use no later than the end of normal business hours on the Service Date which is the negotiated date that service is to be made available to the customer. This Service Installation Guarantee will be in effect for Service Dates negotiated on or after June 20, 1996 and is applicable only to services specified in A35.1 and A35.3.
  - 2. The failure of the Company to meet this commitment will result in the credit of an amount equal to the nonrecurring charges associated with the individual service having the missed Service Date being applied to the MSP's bill. The credit will include only nonrecurring charges associated with the services rated in A35.1 and A35.3 for which nonrecurring charges are applicable and listed. The nonrecurring charges will be credited at the rate at which they were billed. The credit will not be provided if a credit of the same nonrecurring charge for the same service is provided under any other provisions of this Tariff.
  - 3. For Service Installation Guarantee to apply to the establishment of a dedicated NXX or the subsequent movement of an NXX, the MSP must define the related trunking information necessary to successfully complete an end-to-end test. The MSP must associate the dedicated NXX with an existing active trunk group (two-way or one-way inward) or establish a new trunk group (two-way or one-way inward) to associate with the dedicated NXX. If a new trunk group is established for this purpose, it must be activated ten days prior to the Service Date of the new or relocated dedicated NXX.

## **A35. INTERCONNECTION OF MOBILE SERVICES**

### **35.1 Interconnection Services for Mobile Service Providers (MSP's) (Cont'd)**

#### **A35.1.1 General (Cont'd)**

##### **F. Service Installation Guarantee (Cont'd)**

4. Service Installation Guarantees do not apply:
  - a. when failure to meet the Service Date occurs because of:
    - (1) any act or omission of this MSP, any other MSP or any third party, or of any other entity providing a portion of a service,
    - (2) labor difficulties, governmental orders, civil commotions, criminal actions against the Company, acts of God, war or other circumstances beyond the Company's control,
    - (3) unavailability of the customers facilities and/or equipment
  - b. to service requiring Special Construction as set forth in Section A5. of this tariff.
  - c. to Specialized Service or Arrangements or Individual Case Basis filings as set forth in Section A5. of this tariff.
  - d. when alternate arrangements for SS7 signaling links are utilized.

In addition, Service Installation Guarantee will not apply during a declared National Emergency.

##### **G. Other Associated Terms, Rates and Conditions**

1. These services are offered at the rates specified herein from central offices where necessary service options are available.
2. The rates contained in this offering contemplate the use of standard serving arrangements normally provided by the Company. Non-standard facility requirements, equipment, or service options may be requested via the special arrangement process as defined in Section A5. of this Tariff.
3. MegaLink® service, MegaLink® channel service, and LightGate® service (*a.k.a. BellSouth SPA Point to Point Network*) from Section B7. of the Private Line Services Tariff are used to rate certain portions of DS1 service offered under this Tariff. The terms and conditions which apply for those services apply here, except that the month to month rate for MegaLink® channel service, as specified in B7.3 of the Private Line Services Tariff, may be applied without the requirement of fulfilling any minimum contract period. However, a minimum initial service period may apply for DS1 service specified in Section B7. of the Private Line Services Tariff for MegaLink® or LightGate® service (*a.k.a. BellSouth SPA Point to Point Network*).
4. Directory listings for MSP's are provided in accordance with regulations and rates found in Section A6.
5. Clients of the MSP may be provided directory listings as specified in A6.6.2 Business Additional Listing.
6. Charges for Operator Assisted Local Call and Local Calling Card Service, and Local Operator Verification/Interrupt Service as defined in Section A3. of this Tariff are applicable and will be individually itemized on the MSP's bill.
7. Charges for IntraLATA Long Distance Operator Verification/Interrupt Service as defined in Section A18. of this Tariff are applicable and will be individually itemized on the MSP's bill.
8. When the MSP wants to prohibit third number and collect calls to mobile numbers, Billed Number Screen is available upon request. Certain calls cannot be screened, including but not limited to calls handled by independent Company (ICO) operators, Maritime, Air-to-Ground, and International calls, or calls handled by companies that do not subscribe to the data base where toll billing exception data is stored. The MSP is, however, responsible for the cost of these calls.
9. The appropriate service charges in Section A4. apply to the establishment and rearrangement of service provided in this section. In addition, the nonrecurring charges specified in A35.1.6 shall apply for connection of service and rearrangements.



## **A12. CENTRAL OFFICE NON-TRANSPORT SERVICE OFFERINGS<sup>1</sup>**

### **12.20 MultiServ<sup>®</sup> Service (Cont'd)**

#### **12.20.2 Regulations (Cont'd)**

##### **S. (Cont'd)**

Each ISDN Basic Rate DSL Access Arrangement will be counted as a MultiServ<sup>®</sup> service or MultiServ PLUS<sup>®</sup> service line determining the total system size.

MultiServ<sup>®</sup> service Optional Features compatible with ISDN may be purchased for use with these ISDN - IBS lines. MultiServ<sup>®</sup> service Feature Groups are not available for use with these ISDN - IBS lines.

ISDN - IBS lines not associated with a MultiServ<sup>®</sup> service or MultiServ PLUS<sup>®</sup> service may not purchase features from this section of the Tariff.

- T. Expanded local serving Area Calling Plans which are available to MultiServ<sup>®</sup> service and MultiServ PLUS<sup>®</sup> service subscribers in Tennessee include RegionServ. Flat Rate and Measured Rate (RegionServ) service available to the subscriber is outlined in Section A3. of this Tariff.

#### **12.20.3 Unconditional Satisfaction Guarantee**

- A. If the subscriber is not completely satisfied with MultiServ<sup>®</sup> service within ninety (90) days of the effective billing date, payments will be handled as indicated in this paragraph.
1. The following charges will be refunded:
    - a. Nonrecurring and recurring charges (up to ninety days recurring billing) for rate elements as specified in this sub-section for MultiServ<sup>®</sup> service.
    - b. Service charges from Section A4. of this Tariff.
  2. The following charges will not be refunded:
    - a. End User Common Line Charges as specified in BellSouth Telecommunications, Inc., FCC No. 1, Section 4.
    - b. Usage Charges from Section A3. of this Tariff.
  3. Customer-provided equipment acquired for use with MultiServ<sup>®</sup> service will not be included in this plan.
  4. This guarantee will not apply to transfers of service, moves, conversions or recasts.
  5. MultiServ<sup>®</sup> service will be disconnected no later than ten (10) days after receipt of notification of dissatisfaction.
  6. Subscribers requesting an extension of the ten (10) day disconnection interval to accommodate installation or replacement product/service, will be billed the recurring rates for that period, not to exceed six (6) months.
  7. Subscribers must retain continuous service beyond the ninety (90) days via other Local Exchange Services as offered in Section A3. of this Tariff.

#### **12.20.4 Intercept of Calls**

- A. Rerouting of calls that cannot be completed to the number originally dialed will be offered either standard Intercept or Automatic Number Referral.
1. Intercept - Incoming calls from the exchange and long distance message networks to unassigned station numbers intercepted by the same standard central office recorded announcement equipment used to intercept such calls exchange services. The announcement provided states that the number called is not in service.  
  
Intercommunicating calls to unassigned station numbers are intercepted by central office recorded announcement equipment which is common to all subscriber's MultiServ<sup>®</sup> service systems served out of the same office. The announcement states that the number is not in service and advises that the attendant or the directory number of caller's system should be consulted.

**Note 1:** The changes on this page are a result of a restructure of this section.

## **A12. CENTRAL OFFICE NON-TRANSPORT SERVICE OFFERINGS**

### **12.21.1 General (Cont'd)**

- B.** Rules, Regulations and Rates from A12.20 of this Tariff apply to MultiServ PLUS<sup>®</sup> service unless specifically amended or abridged herein.

### **12.21.2 Regulations**

- A.** Charges from Section A3. for Network Access Registers (NARs) apply. Each subscriber to MultiServ PLUS<sup>®</sup> service must subscribe to a minimum of one (1) Network Access Register.
- B.** Rates and charges from A12.20 of this Tariff apply for the following:
1. Common Rates and Charges
    - a. Training Charges
    - b. Interoffice Channels
    - c. Miscellaneous Charges
  2. Feature Groups
  3. Tandem Switching Features (TSF)
  4. Systems Communication Service (SCS)
  5. Optional Service Features
  6. Electronic Business Set Service (EBS)
  7. Multi-Account Service (MAS)
  8. Customer Control
- C.** Rates and Charges herein apply for the following:
1. Service Establishment
  2. Cancellation Charge
  3. Main Station Links
- D.** If a partial disconnect of MultiServ PLUS<sup>®</sup> service would result in a system of less than ten (10) main station lines, the subscriber may retain billing for ten (10) main station lines or convert to MultiServ<sup>®</sup> service.

### **12.21.3 Unconditional Satisfaction Guarantee**

- A.** The following charges will also be refunded to a MultiServ PLUS<sup>®</sup> service subscriber:

1. Network Access Register recurring charges
2. Grouping recurring charges

(Further explanation regarding Unconditional Satisfaction Guarantee is available in A12.20.3 of this Tariff.)

### **12.21.4 Intercept of Calls**

- A.** Automatic Number Referral

Telephone numbers that are listed in the directory for main station lines will be provided Automatic Number Referral (desired) at no charge if disconnected or changed. For numbers that are not listed, charges from A12.20.13 apply per number referred.

(Further explanation regarding Intercept of Calls is available in A12.20.4 of this Tariff.)

### **12.21.5 Conversions**

- A.** ESSX<sup>®</sup> service and MultiServ<sup>®</sup> service may be converted to *MultiServ PLUS<sup>®</sup> service as follows:*

1. Nonrecurring charges from this sub-section of this Tariff will not apply.

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
TENNESSEE  
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BY: President - Tennessee  
Nashville, Tennessee

## ACCESS SERVICES TARIFF

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Cancels Second Revised Page 22.1.1

EFFECTIVE: November 19, 1998

**E7. SPECIAL ACCESS (A.K.A. BELLSOUTH SPA) SERVICE****E7.2 Service Descriptions (Cont'd)****E7.2.12 SMARTPath® Service (a.k.a. BellSouth SPA Shared Ring) (Cont'd)****A. Service Description (Cont'd)**

SMARTPath® service (a.k.a. BellSouth SPA Shared Ring) provides a transport link between a customer designated premises where the network is accessed and (1) another customer designated premises, in the same SMARTPath® service (a.k.a. BellSouth SPA Shared Ring) Area or (2) a serving wire center in the same SMARTPath® service (a.k.a. BellSouth SPA Shared Ring) Area for connection to (a) DS1 Basic Channelization, FlexServ® service (a.k.a. BellSouth SPA Customer Reconfiguration), *SMARTRing® service (a.k.a. BellSouth Dedicated Ring)*, or DS3 (a.k.a. BellSouth SPA DS3) service as provided in Section E7. of this Tariff, or (b) a SMARTPath® service (a.k.a. BellSouth SPA Shared Ring) Area Junction of another SMARTPath® service (a.k.a. BellSouth SPA Shared Ring) area in the same Metropolitan Area.

The technical specifications and standard network interfaces for SMARTPath® service (a.k.a. BellSouth SPA Shared Ring) are contained in BellSouth Telecommunications, Inc. Technical Reference Publication 73575. This publication is available from BellSouth Telecommunications, Inc. Documentation Operations, North W5A1, 3535 Colonnade Parkway, Birmingham, Alabama 35243.

DS1s carried over Synchronous Optical Network (SONET) transport systems can incur phase transients as a result of pointer adjustments. In some instances timing problems could surface in customer's equipment with Stratum 3 or better clocks. This may result in the customer's clock disqualifying its synchronization reference, generating an alarm and/or selecting an alternate reference or entering holdover. To insure proper operation, channelized DS1 circuits must comply with Bellcore Technical Advisory, TA-NWT-000436, Digital Synchronization Network Plan, and ANSI T1.101-1994. When timing is taken from a Company transported DS1, the customer's equipment must be capable of accommodating SONET pointer adjustments.

**B. Performance Objectives**

ANSI T1.403-1989 Extended SuperFrame Format (ESF) is required on all circuits in order to assure performance objectives. The performance objectives for SMARTPath® service (a.k.a. BellSouth SPA Shared Ring) are as follows:

1. Meet or exceed 99.99 percent Circuit Availability on a monthly basis. This objective applies except where a customer's equipment is disconnected and/or inoperative.
2. Meet or exceed 99.95 percent Error Free Seconds on a monthly basis.
3. Meet or exceed .009 percent Severely Errored Seconds on a monthly basis.

**C. Performance Guarantees**

The performance guarantees for SMARTPath® service (a.k.a. BellSouth SPA Shared Ring) are as follows:

1. Guaranteed service installation - the Company will meet negotiated due date or credit an amount equal to the nonrecurring charge according to the Service Installation Guarantee described in E2.4.9 preceding.
2. Service Continuity - in the event of primary facility failure, service is guaranteed to switch to an alternate facility path in sixty (60) seconds or less. Failure to meet this guarantee will result in a credit as described in E2.4.4.B.7. preceding, where the trouble is in the network.

**E7.2.13 Reserved For Future Use****E7.2.14 Commercial Quality Video (a.k.a. BellSouth SPA Commercial Quality Video) Service****A. Basic Channel Description**

Commercial Quality Video (a.k.a. BellSouth SPA Commercial Quality Video) service provides a video channel with one-way transmission capability for a standard 525-line/60-field monochrome, or National Television Systems Committee (NTSC)-System M video signal. This service includes two associated 15 kHz audio signals. Commercial Quality Video (a.k.a. BellSouth SPA Commercial Quality Video) service is available for local channels and for associated interoffice channels. This video service is visually comparable to broadcast quality video, but has less stringent technical parameters.

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TENNESSEE  
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## ACCESS SERVICES TARIFF

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**E7. SPECIAL ACCESS (A.K.A. BELLSOUTH SPA) SERVICE****E7.4 Rate Regulations (Cont'd)****E7.4.1 Types Of Rates And Charges (Cont'd)****A. (Cont'd)****3. Nonrecurring Charges (Cont'd)**

The following list identifies the individual Special Access (a.k.a. BellSouth SPA) services provided under Section E7. of this Tariff which are eligible for credit of nonrecurring charges under "Service Installation Guarantee" found in E2.4.10 preceding. Customers with these services are not eligible for the Service Installation Guarantee when the requested installation, move or rearrangement service order interval is four days or less as measured from the Application Date of the order.

- Voice Grade (a.k.a. BellSouth SPA DS0 VG),
- Wired Music,
- Digital Data Access (a.k.a. BellSouth SPA DS0 Digital Data) service<sup>1</sup>,
- High Capacity (a.k.a. BellSouth SPA High Capacity) service
- SMARTPath<sup>®</sup> service (a.k.a. BellSouth SPA Shared Ring)
- Commercial Quality Video (a.k.a. BellSouth SPA Commercial Quality Video) service
- SMARTRing<sup>®</sup> service (a.k.a. BellSouth Dedicated Ring)

Provided, however, that the following service is not eligible for such credit.

- FlexServ<sup>®</sup> service (a.k.a. BellSouth SPA Customer Reconfiguration)

**a. Installation of Service**

Nonrecurring charges apply to each service installed. When one service is ordered and installed, it is billed at the First Service Installed rate. When more than one of the same type of service, between the same locations, for the same customer is ordered and installed at the same time, one at each location is billed at the First Service Installed rate and the others are billed at the Additional Service Installed rate. Nonrecurring charges are per each rate element for Commercial Quality Video (a.k.a. BellSouth SPA Commercial Quality Video) service.

**b. Installation of Optional Features and Functions**

Nonrecurring charges apply for the installation of some of the optional features and functions available with Special Access (a.k.a. BellSouth SPA) service. The Initial nonrecurring charge applies if the feature or function is installed coincident with the primary service. The Subsequent nonrecurring charge applies if the feature or function is installed after the installation of the primary service.

First and Additional nonrecurring charges are applicable to activate each individual Central Office Channel Interface of a DS1 or DS0 Basic Channelization System, and are in addition to the nonrecurring charges for the DS1 or DS0 Basic Channelization System. A "First" Central Office Channel Interface nonrecurring charge is applicable to the first Central Office Channel Interface installed coincident with the installation of a DS1 or DS0 Basic Channelization System, per service request. The "Additional" nonrecurring charge applies for each additional Central Office Channel Interface, of the same type, ordered and installed at the same location, for the same customer, at the same time, on the same order request. Future requests for a Central Office Channel Interface on an existing DS1 or DS0 Basic Channelization System will be treated as new requests and will require "First" and "Additional" Central Office Channel Interface nonrecurring charge application in addition to any other applicable charges.

One nonrecurring charge is applicable for each individual DS1 Level Central Office or Customer Channel Interface and is in addition to any other applicable charge(s).

The nonrecurring charges for the installation of optional features and functions are set forth in E7.5 following as nonrecurring charges for optional features and functions associated with the specific services.

**Note 1:** The Data Over Voice Channel optional feature is not eligible for such credit.

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## ACCESS SERVICES TARIFF

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EFFECTIVE: March 26, 1997

## E5. ORDERING OPTIONS FOR BELLSOUTH SWA AND SPECIAL ACCESS (A.K.A. BELLSOUTH SPA) SERVICE

(T)

### E5.2 Access Order (Cont'd)

#### E5.2.1 Provision of Service (Cont'd)

- K. For *BellSouth SWA* WATS Service, the customer must also specify the type of calling (i.e., Originating Only or Terminating Only) for which the service is to be provided. Additionally, when necessary screening functions are not provided at the wire center which serves the customer's originating or terminating premises, the Company will provide the service to the nearest wire center where the capability exists. In these circumstances, the customer will be so notified and the order will be changed to designate the appropriate premises. No charge will apply for the change. (T)
- L. When ordering *BellSouth* Operator Transfer Service, the IC shall specify the number of new or additional *BellSouth SWA* FGD or *BellSouth SWA* TSBSA 3 trunks desired, if any, to carry originating traffic from the *BellSouth* Operator Services System location to the IC location in each LATA served by the Operator Services System where the IC requests Operator Transfer Service. (T)
- M. When ordering *BellSouth* Inward Operator Services (IOS), the customer shall specify the number of new or additional *BellSouth SWA* FGD or *BellSouth SWA* TSBSA 3 service trunks desired, if any, to carry traffic from the customer's premise to the OSS location, as specified in Section E18. (T)
- N. The Service Installation Guarantee, as set forth in E2.4.10 preceding, is applicable to specified services offered in this Tariff. The Service Installation Guarantee is applied on a per service order basis for *BellSouth SWA* services. The Service Installation Guarantee is applied on a per circuit basis for Special Access Services. (T)
- O. For *BellSouth SWA* 500 service, as described in E6.2.10 following, the customer shall order in the same manner which is set forth preceding for ordering *BellSouth SWA* FGC, *BellSouth SWA* FGD, *BellSouth SWA* TSBSA 2 and TSBSA 3 except that customers must order *BellSouth SWA* FGC, *BellSouth SWA* FGD, *BellSouth SWA* TSBSA 2 and TSBSA 3 to all end offices within the customer designated LATA(s), either through the tandem or by direct connections to the end office. (T)  
The customer is also responsible for reporting to the Company the percent interstate usage (PIU) for *BellSouth SWA* 500 service as set forth in E2.3.14 preceding. (T)

#### E5.2.2 Reserved For Future Use

#### E5.2.3 Access Order Modifications

- A. The customer may request a modification of its Access Order at any time prior to notification by the Telephone Company that service is available for the customer's use or prior to the service date, whichever is earlier. The Telephone Company will make every effort to accommodate requested modification when it is able to do so with the normal work force assigned to complete such an order within normal business hours. If the modification cannot be made with the normal work force during normal business hours, overtime installation charges as set forth in E13.2.6 may be applicable. All charges for Access Order modifications will apply on a per occurrence basis.
- B. Any increase in the number of *BellSouth SWA* and special access (a.k.a. *BellSouth SPA*) service channels, VEIS DS1 and/or DS3 cross-connect elements, or *BellSouth SWA* service lines, trunks, or CCS7 Signaling Connections and CCS7 Signaling Terminations will be treated as a new Access Order (for the increased amount only). (T)
- C. If order modifications are necessary to satisfy the transmission performance for a (a.k.a. *BellSouth SPA*) service ordered by a customer, these changes will be made without order modification charges being incurred by the customer. (T)
- D. Service Date Change Charge
  - 1. Access Order service dates for installation of new services or rearrangements of existing services may be changed, but the new service date may not exceed the original service date by more than 30 calendar days.
  - 2. When, for any reason, the customer indicates that service cannot be accepted for a period not to exceed 30 calendar days, and the Company accordingly delays the start of service, a Service Date Change Charge will apply. If the customer requested service date is more than 30 calendar days after the original service date, the order will be canceled by the Company and reissued with appropriate cancellation charges applied, unless the customer indicates that billing for the service is to commence as set forth in E5.2.4.A. following. (M)

(M)

Material previously appearing on this page now appears on page(s) 4.1 of this section.

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
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## ACCESS SERVICES TARIFF

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## E5. ORDERING OPTIONS FOR BELLSOUTH SWA AND SPECIAL ACCESS (A.K.A. BELLSOUTH SPA) SERVICE

(T)

### E5.2 Access Order (Cont'd)

#### E5.2.3 Access Order Modifications (Cont'd)

##### D. Service Date Change Charge (Cont'd)

3. A new service date may be established that is prior to the original service date if the Company determines it can accommodate the customer's request without delaying service dates for orders of other customers. (M) (T)
4. A Service Date Change Charge will apply, on a per order per occurrence basis, for each service date changed. The applicable charge is: (M) (T)

	Nonrecurring Charge	USOC
(a) Service Date Change Charge, per order	\$26.21	OMC
Service Installation Guarantee, as set forth in E2.4.10 preceding, is not applicable for Service Date Change Charges.		(M) (T)

##### E. Partial Cancellation Charge

1. Any decrease in the number of ordered Special Access (*a.k.a. BellSouth SPA*) service channels, *BellSouth SWA* service lines, trunks, or *BellSouth SWA* Transport facilities or *BellSouth SWA* CCSAC signaling connections will be treated as a partial cancellation and the charges as set forth in E5.2.4.B. following will apply. (T)

##### F. Design Change Charges

1. The customer may request a design change to the service ordered. A design change is any change to an Access Order which requires engineering review. An engineering review is a review by Company personnel of the service ordered and the requested changes to determine what changes in the design, if any, are necessary to meet the changes requested by the customer. Design changes include such things as the addition or deletion of optional features or functions or a change in the type of *BellSouth SWA* Termination, type of channel interface, type of Interface group or technical specification package. Design changes do not include a change of customer premises, end user premises, end office switch, *BellSouth SWA FG* type, *BellSouth SWA Basic Serving Arrangement* type, or Special Access (*a.k.a. BellSouth SPA*) service channel type. Changes of this nature will require the issuance of a new order and the cancellation of the original order with appropriate charges applied. (T)
2. Should a customer requested design change be received on a pending access order that results in the establishment of a new service date that exceeds the original service date by more than 30 days, the customer shall not be required to cancel and reissue a new order, but shall be billed a Design Change Charge and a Service Date Change Charge.
3. The Company will review the requested change, notify the customer whether the change is a design change, if it can be accommodated and if a new service date is required. If the customer authorizes the Company to proceed with the design change, a Design Change Charge will apply. The Design Change Charge will apply on a per order, per occurrence basis, for each order requiring a design change.
4. The applicable charge is:

	Nonrecurring Charge	USOC
(a) Design Change Charge, per order	\$26.21	H28
Service Installation Guarantee, as set forth in E2.4.10 preceding, is not applicable for Design Change Charge.		
5. If a change of service date is required, the Service Date Change Charge as set forth in D. preceding will also apply.		

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
TENNESSEE  
ISSUED: October 20, 1998  
BY: President - Tennessee  
Nashville, Tennessee

## ACCESS SERVICES TARIFF

Fourth Revised Page 18.6  
Cancels Third Revised Page 18.6

EFFECTIVE: November 19, 1998

**E2. GENERAL REGULATIONS****E2.4 Payment Arrangements and Credit Allowances (Cont'd)****E2.4.10 Service Installation Guarantee**

- A. The Company assures that orders for services to which the Service Installation Guarantee applies will be installed and available for customer use no later than the Service Date as specified in E5.2.4.B. following. The Service Installation Guarantee is applicable only as specified in E6.7.1.C. and E7.4.1.A. following. (M)
- B. The failure of the Company to meet this commitment will result in the credit of an amount equal to the nonrecurring charges associated with the individual service having the missed Service Date being applied to the customer's bill. The credit will include only nonrecurring charges associated with the services specified in E6.7.1.A. and E7.4.1.A. following for which nonrecurring charges are applicable. The nonrecurring charges will be credited at the rate at which they were billed. The credit will not be provided if a credit of the same nonrecurring charge for the same service is provided under any other provisions of this Tariff. (M)
- C. For Commercial Quality Video (a.k.a. BellSouth SPA Commercial Quality Video) service which is jointly provided by the Company and one or more local exchange companies, the Service Installation Guarantee is applicable only for those portions of the Commercial Quality Video (a.k.a. BellSouth SPA Commercial Quality Video) service within the Company's territory and only if the failure to meet the commitment is the fault of the Company. (M)
- D. Service Installation Guarantees do not apply: (M)
  - 1. when failure to meet the Service Date occurs because of: (M)
    - a. any act or omission, *which shall include an accurate and complete service order from this customer*, any other customer or any third party, or of any other entity providing a portion of a service, (C)(M)
    - b. labor difficulties, governmental orders, civil commotions, criminal actions against the Company, acts of God, war, or other circumstances beyond the Company's control, (M)
    - c. unavailability of the customer's facilities and/or equipment, (M)
  - 2. to service requiring Special Construction as set forth in Section E14. following.
  - 3. to Specialized Service or Arrangements or Individual Case Basis filings,
  - 4. for jointly provisioned services except as stipulated in C. preceding and 5. following,
  - 5. to BellSouth SWA or Special Access (a.k.a. BellSouth SPA) installation, moves and arrangements of service with requested intervals of four days or less, as measured from the Application Date of the service order.

In addition, Service Installation Guarantees will not apply during a declared National Emergency. Priority installation of National Security Emergency Preparedness (NSEP) telecommunications services shall take precedence.

**E2.5 Connections****E2.5.1 General**

- A. Equipment and Systems (i.e., terminal equipment, multiline terminating systems and communications systems) may be connected with Switched and Special Access (a.k.a. BellSouth SPA) service furnished by the Company where such connection is made in accordance with the provisions specified in Technical Reference Publication AS No. 1 and in E2.1 preceding.

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
TENNESSEE  
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Nashville, Tennessee

## ACCESS SERVICES TARIFF

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**E6. BELLSOUTH SWA SERVICE****E6.7 Rate Regulations (Cont'd)****E6.7.1 Description And Application Of Rates And Charges (Cont'd)****A. (Cont'd)****3. Nonrecurring Charges**

Nonrecurring charges are one-time charges that apply for a specific work activity (i.e., installation of new service or change to an existing service). The types of nonrecurring charges that apply for BellSouth SWA service are: installation of new service, installation of optional features or BSEs, service rearrangements, BellSouth SWA 8XX Toll Free Dialing Ten Digit Screening service and Transfer of Service.

The following list identifies the individual BellSouth SWA service elements, for which charges are set forth in Section E6. of this Tariff, which are eligible for credit of nonrecurring charges under "Service Installation Guarantee" found in E2.4.10 preceding. *Customers with these services are not eligible for the Service Installation Guarantee when the requested installation, move or rearrangement service order interval is four days or less as measured from the Application Date of the order.*

Switched Local Channels

BellSouth SWA Transport (Interoffice Channel) Installation

Optional Features (Installed coincident with Switched Local Channels, Switched Interoffice Channels And Associated Channelization Equipment), and

Dedicated Network Access Line Service

The following list identifies the BellSouth SWA service elements not eligible for credit of nonrecurring charges under "Service Installation Guarantee" found in E2.4.10 preceding.

BellSouth SWA Service Rearrangements, Conversions, and/or Inside Moves,

BellSouth SWA 500 Service,

BellSouth SWA 8XX Toll Free Dialing Ten Digit Screening Service,

The BellSouth SWA FGD BellSouth SWA CCSAC and the SS7 Signaling Connection, and  
Transfer of Service

**a. Installation of New Service**

Nonrecurring charges apply to each BellSouth SWA service installed. For BellSouth SWA FGA, BellSouth SWA FGB, BellSouth SWA LSBSA and BellSouth SWA TSBBSA 1, which are ordered on a per line or trunk basis respectively, and for BellSouth SWA FGC, BellSouth SWA FGD or BellSouth SWA TSBBSA 2 or BellSouth SWA TSBBSA 3 when ordered on a per trunk basis, the charge is applied per line or trunk. In addition, when a signaling connection is installed for use with the BellSouth SWA FGD and BellSouth SWA TSBBSA 3 BellSouth SWA CCSAC option, or TCAP Message Transmission option, the charge is applied per the signaling connection.

The installation charge, as set forth in E6.8.1 following, is applicable on a first and additional line or trunk basis. If a customer places an Access Service Request (ASR) for multiple lines to the same end office or multiple trunks on a common trunk group with the same premises interface code, the first line or trunk on the ASR is assessed the "First" installation charge and each additional line or trunk is assessed the "Additional" installation charge. Services requested on multiple ASRs will be treated as one request when requirements, as specified in E6.1.7 are met, and will receive "First" and "Additional" treatment.